



Memorandum

CITY OF DURHAM

To: Karmisha R. Wallace, Senior Assistant to the City Manager

From: Steven L. Medlin, AICP, Planning Director

Date: November 18, 2014

Re: 2015 Long Session Legislative Request

Please consider the following request for the 2015 Long Session Legislative Agenda:

Title

An Act To: Amend the charter of the City of Durham to allow the Planning Commission and the City Council to give notice of and hold public hearings on applications for initial zoning of property subject to a voluntary annexation petition prior to the passage of an annexation ordinance.

Requestor

City-County Planning (Staff resources are Patrick Young [Assistant Planning Director] and Scott Whiteman [Planning Supervisor]).

Subject

This request would allow the Planning Commission and City Council to have clear authority to hold public hearings on zoning map changes prior to the Council approving a voluntary annexation petition for the subject property. Current State law prohibits this. This facilitates City Council's 2012 resolution which directs staff to present annexation petitions and the associated initial zoning item as a consolidated public hearing.

Costs

No costs are anticipated.

Comments

An identical local bill (HB 541, see attached) was introduced by then-Rep. Foushee during the 2013 long session, but was referred to the Rules Committee and never considered. A rewrite of the Planning and Zoning statutes is being proposed by the N.C. Bar Association for the 2015 session, and if approved as currently written, would make this legislation unnecessary.

cc: Keith Chadwell, Deputy City Manager
Patrick Baker, City Attorney
Don O'Toole, Deputy City Attorney
Patrick O. Young, AICP, Assistant Planning Director
Scott Whiteman, Planning Supervisor

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 541

Short Title: Durham Voluntary Annexations. (Local)

Sponsors: Representative Foushee (Primary Sponsor).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Rules, Calendar, and Operations of the House.

April 4, 2013

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE CITY OF DURHAM TO ALLOW THE
PLANNING COMMISSION AND THE CITY COUNCIL TO GIVE NOTICE OF AND
HOLD PUBLIC HEARINGS ON APPLICATIONS FOR INITIAL ZONING OF
PROPERTY SUBJECT TO A VOLUNTARY ANNEXATION PETITION PRIOR TO
THE PASSAGE OF AN ANNEXATION ORDINANCE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 89 of the Charter of the City of Durham, being Chapter 671
of the 1975 Session Laws, as amended by Chapter 694 of the 1981 Session Laws, reads as
rewritten:

"Sec. 89. Enactment of Ordinances Prior to Effective Date of Annexation. – The City
Council and the Planning ~~and Zoning~~ Commission of the City are hereby authorized and
empowered, after the passage of an annexation ordinance and prior to the date upon which the
territory described therein is actually annexed to the City, to initiate, hold hearings upon, adopt
resolutions providing for public hearings, conduct public hearings upon such resolutions,
petitions, proposals, and ordinances and the Council is further empowered to enact zoning
ordinances, for the determination of zone boundaries and allocation of the area into zoning,
classifications and districts, and the application of zoning regulations and restrictions, to be
applicable to the territory described in the annexation ordinances to be annexed. Further, upon
the receipt of a voluntary annexation petition under Part 1 or Part 4 of Article 4A of Chapter
160A of the General Statutes, the Planning Commission is hereby authorized and empowered
to give notice of and hold public hearings to review and provide comment to the City Council
on applications for the initial City zoning of property subject to a voluntary annexation petition
prior to the passage of an annexation ordinance. The City Council is authorized to give notice
of and hold public hearings required for the initial zoning of property subject to a voluntary
annexation petition prior to the passage of an annexation ordinance. However, the City Council
shall only conduct the initial zoning public hearings and vote on the initial zoning of property
subject to a voluntary annexation petition after the passage of an annexation ordinance. But no
such establishment of zone boundaries or any zoning regulations or restrictions in such annexed
territory described in the annexation ordinances shall be effective until the effective date upon
which the area is actually annexed to the City as provided in the annexation ordinances, but at
that time such zoning regulations and restrictions and boundaries shall simultaneously become
effective with such annexation. This section does not limit the authority of the City to exercise
its extraterritorial jurisdiction pursuant to Article 19 of Chapter 160A of the North Carolina
General Statutes."



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SECTION 2. This act is effective when it becomes law.